

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

**ME2 PRODUCTIONS, INC., and CELL
FILM HOLDINGS, LLC,**

Plaintiffs,

v.

WILLIAM PATRICK SHELDON,

Defendant.

Case No. 3:17-cv-0158-SB

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Stacie F. Beckerman issued Findings and Recommendation in this case on September 21, 2017. ECF 36. Judge Beckerman recommended that Plaintiffs' motion to voluntarily dismiss this case without prejudice be granted, with the condition that Defendant be awarded his reasonable fees and costs.

Under the Federal Magistrates Act ("Act"), the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

Plaintiffs timely filed an objection. ECF 40. Plaintiffs argue that the dismissal should not be conditioned on Plaintiffs awarding Defendant his reasonable fees and costs. The Court has reviewed *de novo* those portions of Judge Beckerman's Findings and Recommendation to which Plaintiffs have objected, as well as Plaintiffs' objections, Defendant's response, and the underlying briefing before Judge Beckerman. The Court agrees with Judge Beckerman's reasoning regarding the propriety of awarding Defendant his reasonable fees and costs, and **ADOPTS** those portions of the Findings and Recommendation.

For those portions of a magistrate's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the Court review the magistrate's recommendations for "clear error on the face of the record."

For those portions of Judge Beckerman's Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

CONCLUSION

The Court **ADOPTS** Judge Beckerman's Findings and Recommendation, ECF 36. Plaintiffs' Motion for Voluntary Dismissal (ECF 19) is **GRANTED**. This case is dismissed
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without prejudice, but with the condition that Defendant is awarded his reasonable fees and costs.

IT IS SO ORDERED.

DATED this 18th day of October, 2017.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge